

Remarks

Claims 42-52, 91-129, and 131-143, 145 are pending. Claims 130 and 144 are cancelled. Claims 146-152 are added. Although we do not agree with the previous rejections, a Request for Continued Examination is co-filed to remove this application from appeal and to advance prosecution. The following comments respond to the office action dated August 23, 2006.

Rejections under 35 U.S.C. 102

The Examiner rejected claims 141-143 under 35 U.S.C. 102(e) as anticipated by U.S. Pat. No. 5,819,028 to Manghirmalani ("Manghirmalani"). Claim 141 is amended to include the limitations of claim 144, which the Examiner admits is not anticipated by Manghirmalani. Claims 142 and 143 depend from claim 141. For these reasons, we request that this rejection be withdrawn.

Rejections under 35 U.S.C. 103

The Examiner rejected claims 42-45, 48-52, 91-94, 98-101, 105-108, 110, 111, 113-123, 126, 127, 129, 131-134, 136, and 140 as obvious over Manghirmalani in view of Tuli et al. U.S. Pat. No. 6,256,651 to Tuli et al. ("Tuli"). As an initial matter, the arguments presented in the Appeal Brief filed July 26, 2007 and the Reply Brief filed March 10, 2008 in favor of patentability apply equally to the claims presented herein. For brevity, those arguments are not re-presented in their entirety, but are incorporated by reference herein in their entirety. Instead, we will focus on specific portions of those arguments.

Manghirmalani describes an "apparatus which provides the user with an indication of the computer network's health." Manghirmalani at Abstract. Manghirmalani describes its system as follows:

[I]t is the function of the network management system to collect, monitor, control, and display various aspects associated with the computer network. The network management system accomplishes its task by gathering data close to the source; reducing the data to meaningful information; and presenting the resulting data to one or more central management stations which then displays the data to an operator. [Col. 5, lines 27-33.]

...

The network management station initiates the data gathering process by sending queries to agents located within each concentrator. An agent is a pre-configured

software program that continually collects data as specified by the program. The collected data is stored in a local register. [Col. 5, lines 39-43.]

...
By using a network management system, the operator can obtain and evaluate system-wide diagnostic and status information, monitor network devices and their locations, observe network activity, and control access to the network system. [Col. 5, lines 51-55.]

...
The "health" of a network is an overall numerical representation of how well the network is functioning. [Col. 6, lines 18-19.]

...
The health information can be portrayed in the forms of a dial meter, graph meter, or digital meter. [Col. 8, lines 16-18; see also FIG. 3 included at right.]

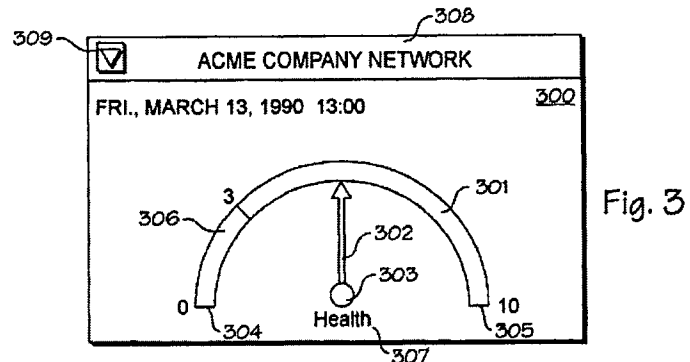


Fig. 3

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FIG. 11 [included at right] illustrates a window 1100 which contains two scroll boxes 1101 and 1102. The device type scroll box 1101 contains a list of network devices. The meter type scroll box 1102 displays the meter types which have been defined for the selected device type. The user can select a particular device and meter type. The selected device 1103 and meter 1104 type will be highlighted. A file menu 1105 maintains a configuration file for each specific meter type. The configuration file contains information about the meter formula, MIB objects that are used in the formula, and settings for determining when the dial meter enters the green, yellow, or red areas. [Col. 12, lines 1-12.]

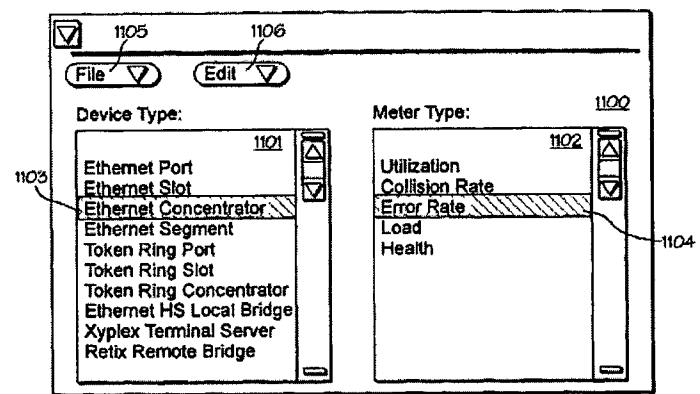


Fig. 11

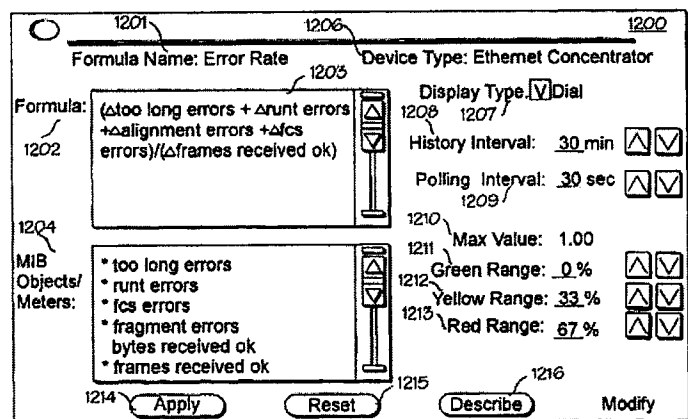


Fig. 12

...
FIG. 12 [included at right] illustrates a window used to modify the settings for a particular meter type. Formula name 1201 displays the selected meter type. Formula 1202 is comprised of a scroll box 1203 which contains the formula to be applied to the selected

meter type 1201. MIB objects/meters 1204 is comprised of a scroll box 1205 which contains a list of MIB objects or meter types which are used in the meter formula 1202. An "*" indicates that the MIB object/meter type is currently being used in the formula. [Col. 12, lines 12-24.]

The data displayed by Manghirmalani is merely pre-stored data displayed according to user-controlled display parameters; this displayed data cannot be manipulated by a user to change the underlying data. More specifically, Manghirmalani fails to show where "a data structure is created or modified using the selected set of one or more of said set of data parameters and the graphical relative positioning of the selected set of one or more of said set of data parameters of the data picture" as recited in claim 42, with similar limitations recited in independent claims 91, 99, 106, 111, 121, and 136. Relative positioning of variables in a function is not graphical relative positioning of a selected set of one or more data parameters.

Indeed, the Examiner admits that Manghirmalani fails to teach displaying graphically relative positioning of the selected set of data parameters, instead relying on Tuli with respect to this feature. Tuli discloses a "workflow system and program for organizing the time and priorities of a user, wherein the information input by a user into a spreadsheet is generated by the program into a bar graph." Tuli at Abstract. Tuli also describes

Using conventional drag and drop methods, a user may click a button on a mouse while the cursor is positioned over a bar, and drag the selected bar to a preferred location within the bar graph. Thus, a user is able to rearrange the bars according to personal preference, if the computer generated graph is not appropriate. [Col. 4, lines 62-67.]

...

To modify Task 3e 35e, a primary user may drag and drop with a mouse, the bar 36e of the bar graph 30e of FIG. 5b to the required location. Referring to FIG. 5d [included below], the bar 36e has been "dropped" in the second day 37b. Thus, the computer application automatically relocates Task 2c 35e to the final four hours of the second day 37b, as represented by the bar 36e of FIG. 5d. Similarly, Task 4c 35f is relocated to the third day 37e, as illustrated by the bar 36f of FIG. 5d. [Col. 8, lines 1-9.]

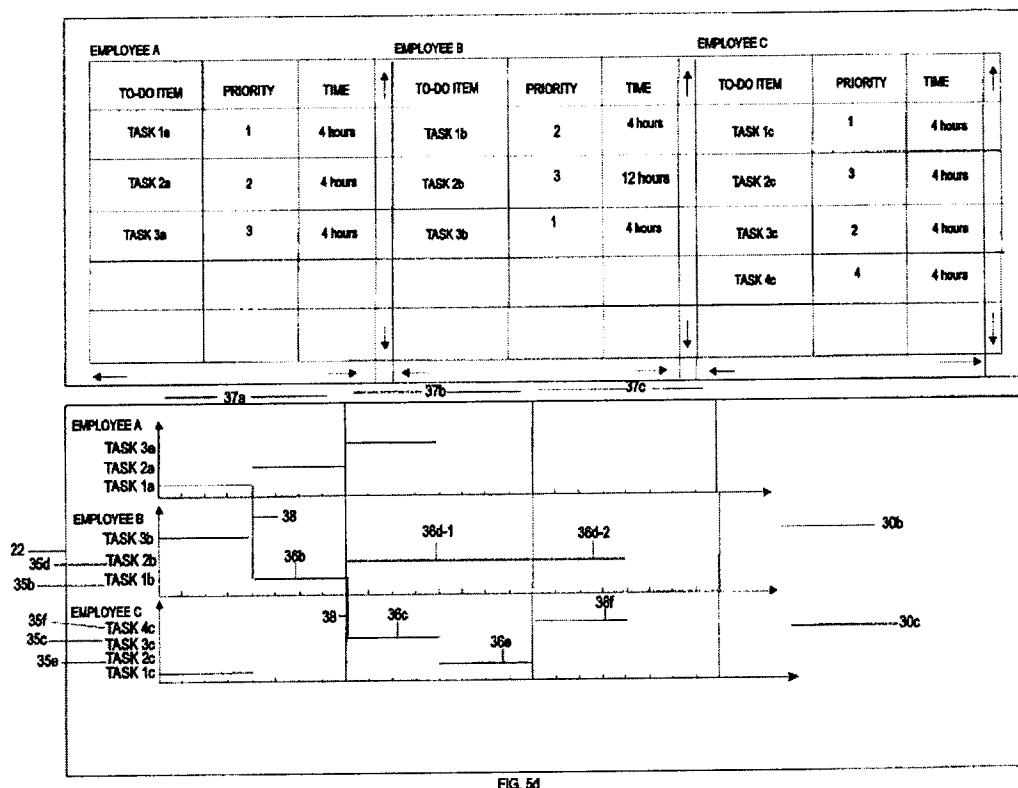


FIG. 5d

As an initial matter it would make no sense to modify Manghirmalani with Tuli as suggested because Manghirmalani's purpose is to display information, not receive inputs to modify the information. See MPEP 2143.01, Section V "The Proposed Modification Cannot Render The Prior Art Unsatisfactory For Its Intended Purpose." The rejections based on Manghirmalani and Tuli should be withdrawn on this basis alone.

Moreover, the combination of Manghirmalani and Tuli fails to teach or suggest every element of the pending independent claims. Tuli's system merely discloses the ability "to rearrange the bars according to personal preference" where the bars correspond to project endpoints. Tuli fails to provide the ability to select from "a set of data parameters available for selection" such that the selected set "can be displayed and relatively positioned arbitrarily" to create or modify a data structure as recited in claim 42. Manghirmalani discloses the ability to select various display parameters, but neither Manghirmalani nor Tuli disclose or suggest arranging selected parameters to create or modify a data structure as recited in the claims.

Similarly, neither reference discusses storing "a weighting factor associated with said data parameter" where the weighting factor is "derived from a relative placement of said data parameter within the graphical arrangement" as discussed in independent claims 126, 131, and 141. Again, Manghirmalani discloses the ability to set a textual formula that influences a visual

display. This teaching would push one skilled in the art reading Manghrialani as a whole away from the opposite idea presented in the claims, taking graphical arrangement in a visual display to create data including a weighting factor. Accordingly, the suggested combination with Tuli fails because the complete silence on this point renders the references incapable of even suggesting this element.

For all these reasons, the rejections of the independent claims 42, 91, 99, 106, 111, 121, 126, 131, 136, and 141. The remaining claims ultimately depend upon one of the independent claims shown allowable above. While we believe that other arguments are available to highlight the allowable subject matter presented in various ones of these dependent claims, we also believe that the comments set forth herein and in the appeal briefing of record regarding allowability of the independent claims are sufficiently compelling to warrant present exclusion of such additional points for the sake of brevity and expedited consideration.

New Claims 146-151

Claims 146-152 are added, of which claims 146, 150, and 152 are independent. The claims are supported at least by FIG. 2 and page 15, line 23 through page 16, line 17 of the specification. It is respectfully submitted that claims 146-151 are allowable over the cited art for the reasons provided above. Moreover, we note that claims 150-151 are directed to a “data structure,” which is statutory subject matter under *In re Lowry*, 32 F.3d 1579 (Fed. Cir. 1994).

Conclusion

For all of the reasons mentioned above, we respectfully request reconsideration and allowance of all pending claims. The Examiner is invited to contact the undersigned attorney to expedite prosecution.

The Commissioner is hereby authorized to charge any additional fees that may be required with respect to this communication, or credit any overpayment, to Deposit Account No. 06-1135.

Respectfully submitted,

FITCH, EVEN, TABIN & FLANNERY

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/Nicholas T. Peters/
Nicholas T. Peters
Registration No. 53,456
ntpete@fitcheven.com

FITCH, EVEN, TABIN & FLANNERY
120 S. LaSalle Street, Suite 1600
Chicago, Illinois 60603-3406
Telephone: 312.577.7000